

Senate, April 3, 1998. The Committee on Public Health reported through SEN. HARP, 10th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING TECHNICAL CORRECTIONS TO THE PUBLIC HEALTH STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 20-195b
2 of the general statutes, as amended by section 1
3 of public act 97-213, is repealed and the
4 following is substituted in lieu thereof:

5 (b) No person shall use the title "licensed
6 marital and family therapist" unless he is
7 licensed in accordance with the provisions of
8 section [19a-195c] 20-195c.

9 Sec. 2. Subsection (f) of section 19a-266 of
10 the general statutes, as amended by section 54 of
11 public act 97-8 of the June 18 special session, is
12 repealed and the following is substituted in lieu
13 thereof:

14 (f) The Commissioner of Public Health shall
15 report annually to the joint standing [committee]
16 COMMITTEES of the General Assembly having
17 cognizance of matters relating to public health
18 and appropriations. The report shall include, but
19 not be limited to, a description of the rate of
20 breast cancer and cervical cancer morbidity and
21 mortality in this state and the extent of
22 participation in breast cancer and cervical cancer
23 screening.

24 Sec. 3. Subsection (a) of section 19a-613 of
25 the general statutes is repealed and the following
26 is substituted in lieu thereof:

27 (a) The Office of Health Care Access shall
28 employ the most effective and practical means
29 necessary to fulfill the purposes of [19a-610 to
30 19a-622] THIS CHAPTER, including but not limited
31 to, performing the duties and functions as
32 enumerated in subsection (b) of this section.

33 Sec. 4. Section 1 of public act 97-188 is
34 repealed and the following is substituted in lieu
35 thereof:

36 For purposes of [this act] SECTIONS 1 TO 9,
37 INCLUSIVE, OF PUBLIC ACT 97-188:

38 (1) "Nonprofit hospital" means a nonprofit
39 entity licensed as a hospital pursuant to chapter
40 368v of the general statutes and any entity
41 affiliated with such a hospital through governance
42 or membership, including, but not limited to, a
43 holding company or subsidiary.

44 (2) "Purchaser" means a person acquiring any
45 assets of a nonprofit hospital [or nonprofit
46 health care center] through a transfer.

47 (3) "Person" means any individual, firm,
48 partnership, corporation, limited liability
49 company, association or other entity.

50 (4) "Transfer" means to sell, transfer,
51 lease, exchange, option, convey, give or otherwise
52 dispose of or transfer control over, including,
53 but not limited to, transfer by way of merger or
54 joint venture not in the ordinary course of
55 business.

56 (5) "Control" has the meaning assigned to it
57 in section 36b-41 of the general statutes.

58 Sec. 5. Section 4 of public act 97-188 is
59 repealed and the following is substituted in lieu
60 thereof:

61 (a) The Attorney General shall disapprove a
62 proposed agreement requiring notice under section
63 2 of [this act] PUBLIC ACT 97-188, as not in the
64 public interest if he determines that one or more
65 of the following conditions exist: (1) The
66 transaction is prohibited by Connecticut statutory
67 or common law governing nonprofit entities, trusts
68 or charities; (2) the nonprofit hospital failed to
69 exercise due diligence in (A) deciding to
70 transfer, (B) selecting the purchaser, (C)
71 obtaining a fairness evaluation from an

72 independent person expert in such agreements, or
73 (D) negotiating the terms and conditions of the
74 transfer; (3) the nonprofit hospital failed to
75 disclose any conflict of interest, including, but
76 not limited to, conflicts of interest pertaining
77 to board members, officers, key employees and
78 experts of the hospital, the purchaser or any
79 other party to the transaction; (4) the nonprofit
80 hospital will not receive fair market value for
81 its assets, which, for purposes of this
82 subsection, means the most likely price that the
83 assets would bring in a sale in a competitive and
84 open market under all conditions requisite to a
85 fair sale, with the buyer and seller each acting
86 prudently, knowledgeably and in their own best
87 interest, and with a reasonable time being allowed
88 for exposure in the open market; (5) the fair
89 market value of the assets has been manipulated by
90 any person in a manner that causes the value of
91 the assets to decrease; (6) the financing of the
92 transaction by the nonprofit hospital will place
93 the nonprofit hospital's assets at an unreasonable
94 risk; (7) any management contract contemplated
95 under the transaction is not for reasonable fair
96 value; (8) a sum equal to the fair market value of
97 the nonprofit hospital's assets (A) is not being
98 transferred to one or more persons TO BE selected
99 by the Superior Court who are not affiliated
100 through corporate structure, governance or
101 membership with either the nonprofit hospital or
102 the purchaser and (B) is not being used for one of
103 the following purposes: (i) For appropriate
104 charitable health care purposes consistent with
105 the nonprofit [hospital or nonprofit health care
106 center's] HOSPITAL'S original purpose, (ii) for
107 the support and promotion of health care generally
108 in the affected community, or (iii) with respect
109 to any assets held by the nonprofit hospital that
110 are subject to a use restriction imposed by a
111 donor, for a purpose consistent with the intent of
112 said donor; or (9) the nonprofit hospital or the
113 purchaser has failed to provide the Attorney
114 General with information and data sufficient to
115 evaluate the proposed agreement adequately,
116 provided the Attorney General has notified the
117 nonprofit hospital or the purchaser of the
118 inadequacy of the information or data and has

119 provided a reasonable opportunity to remedy such
120 inadequacy.

121 (b) The Attorney General may, during the
122 course of a review required by section 3 of [this
123 act] PUBLIC ACT 97-188: (1) Issue in writing and
124 cause to be served upon any person, by subpoena, a
125 demand that such person appear before him and give
126 testimony or produce documents as to any matters
127 relevant to the scope of the review; or (2) issue
128 written interrogatories, to be answered under
129 oath, as to any matters relevant to the scope of
130 the review and prescribing a return date that
131 would allow a reasonable time to respond. If any
132 person fails to comply with the provisions of this
133 subsection, the Attorney General may apply to the
134 Superior Court for the judicial district of
135 Hartford-New Britain seeking enforcement of the
136 subpoena. The Superior Court may, upon notice to
137 such person, issue and cause to be served an order
138 requiring compliance. Service of subpoenas ad
139 testificandum, subpoenas duces tecum, notices of
140 deposition and written interrogatories as provided
141 in this subsection may be made by personal service
142 at the usual place of abode or by certified mail,
143 return receipt requested, addressed to the person
144 to be served at his principal place of business
145 [in] WITHIN OR WITHOUT this state or his
146 residence.

147 (c) The Attorney General may contract with
148 experts or consultants to assist in reviewing the
149 proposed agreement, including, but not limited to,
150 assistance in independently determining the fair
151 market value of the nonprofit hospital's assets.
152 The Attorney General shall submit any bills for
153 such contracts to the purchaser. The purchaser
154 shall pay such bills within thirty days of
155 receipt. Such bills shall not exceed one hundred
156 fifty thousand dollars.

157 Sec. 6. Subsection (c) of section 5 of public
158 act 97-188 is repealed and the following is
159 substituted in lieu thereof:

160 (c) The commissioner may, during the course
161 of a review required by this section: (1) Issue in
162 writing and cause to be served upon any person, by
163 subpoena, a demand that such person appear before
164 him and give testimony or produce documents as to
165 any matters relevant to the scope of the review;
166 and (2) issue written interrogatories, to be

167 answered under oath, as to any matters relevant to
168 the scope of the review and prescribing a return
169 date that would allow a reasonable time to
170 respond. If any person fails to comply with the
171 provisions of this subsection, the commissioner,
172 through the Attorney General, may apply to the
173 Superior Court for the judicial district of
174 Hartford-New Britain seeking enforcement of such
175 subpoena. The Superior Court may, upon notice to
176 such person, issue and cause to be served an order
177 requiring compliance. Service of subpoenas ad
178 testificandum, subpoenas duces tecum, notices of
179 deposition and written interrogatories as provided
180 in this subsection may be made by personal service
181 at the usual place of abode or by certified mail,
182 return receipt requested, addressed to the person
183 to be served at his principal place of business
184 [in] WITHIN OR WITHOUT this state or his
185 residence.

186 Sec. 7. Section 8 of public act 97-188 is
187 repealed and the following is substituted in lieu
188 thereof:

189 The Commissioner of Public Health shall
190 refuse to issue a license to, or if issued shall
191 suspend or revoke the license of, a [nonprofit]
192 hospital if the commissioner finds, after a
193 hearing and opportunity to be heard, that:

194 (1) There was a transaction described in
195 section 2 of [this act] PUBLIC ACT 97-188, without
196 the approval of the Commissioner of Health Care
197 Access, if such approval was required by [this
198 act] SECTIONS 1 TO 9, INCLUSIVE, OF PUBLIC ACT
199 97-188, AS AMENDED BY THIS ACT, and the
200 Commissioner of Health Care Access certifies to
201 the Commissioner of Public Health that approval
202 was not obtained;

203 (2) There was a transaction described in
204 section 2 of [this act] PUBLIC ACT 97-188, without
205 the approval of the Attorney General, if such
206 approval was required by [this act] PUBLIC ACT
207 97-188, AS AMENDED BY THIS ACT, and the Attorney
208 General certifies to the Commissioner of Public
209 Health that such transaction involved a material
210 amount of the nonprofit hospital's assets or
211 operations or a change in control of operations;
212 or

213 (3) The [nonprofit] hospital is not complying
214 with the terms of an agreement approved by the

215 Attorney General and commissioner pursuant to
216 [this act] SECTIONS 1 TO 9, INCLUSIVE, OF PUBLIC
217 ACT 97-188, AS AMENDED BY THIS ACT.

218 STATEMENT OF LEGISLATIVE COMMISSIONERS: Section 1
219 was deleted for accuracy since the technical
220 correction made in that section was unnecessary.

221 PH COMMITTEE VOTE: YEA 23 NAY 0 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 572

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Public Health,
 Office of the Attorney General

EXPLANATION OF ESTIMATES:

Changes contained within this bill are technical in nature and have no associated fiscal impact.

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OLR BILL ANALYSIS

sSB 572

AN ACT CONCERNING TECHNICAL CORRECTIONS TO THE PUBLIC HEALTH STATUTES

SUMMARY: This bill makes technical changes to provisions involving (1) sale or transfer of material amounts of assets, operations, or control of nonprofit hospitals; (2) marital therapists' licensure; (3) breast and cervical cancer detection reporting; and (4) the Office of Health Care Access' powers.

EFFECTIVE DATE: October 1, 1998

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

8

File No. 332

Yea 23 Nay 0